

## Office of the Secretary of Defense

## § 142.5

the use of an SSA to mitigate FOCI, the GCA will provide DSS with a preliminary determination regarding the acceptability of the proposed FOCI mitigation. The determination must be provided to DSS one day prior to the suspense date established by the MIBP CFIUS Team and must include whether a favorable NID will be provided. If the GCA does not notify DSS, DSS will not delay implementation of a FOCI action plan pending completion of a GCA's NID process as long as there is no indication that the NID will be denied.

(vii) If DSS, under its FOCI authorities, is notified of a transaction with respect to which the parties thereto have not filed a notice with CFIUS, DSS will notify the MIBP CFIUS Team through the OUSD(I) Security Directorate.

(viii) When a merger, sale, or acquisition of a contractor is finalized prior to having an acceptable FOCI mitigation agreement in place, DSS will take actions consistent with paragraph (b)(2)(iv) of this section.

### PART 142—COPYRIGHTED SOUND AND VIDEO RECORDINGS

Sec.

142.1 Purpose.

142.2 Applicability.

142.3 Policy.

142.4 Procedures.

142.5 Responsibilities.

AUTHORITY: 10 U.S.C. 133.

SOURCE: 49 FR 49452, Dec. 20, 1984, unless otherwise noted.

#### § 142.1 Purpose.

This part provides policy, prescribes procedures, and assigned responsibilities regarding the use of copyrighted sound and video recordings within the Department of Defense.

#### § 142.2 Applicability.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

(b) This part does not regulate the procurement or use of copyrighted works for authorized official purposes.

#### § 142.3 Policy.

(a) It is DoD policy: (1) To recognize the rights to copyright owners by establishing specific guidelines for the use of copyrighted works by individuals within the DoD community, consistent with the Department's unique mission and worldwide commitments, and (2) Not to condone, facilitate, or permit unlicensed public performance or unlawful reproduction for private or personal use of copyrighted sound or video recordings, using government appropriated or nonappropriated-fund-owned or leased equipment or facilities.

(b) Although the policy expressed in this Directive takes into account the copyright law of the United States, the application of that law to specific situations is a matter for interpretation by the U.S. Copyright Office and the Department of Justice.

#### § 142.4 Procedures.

(a) Permission or licenses from copyright owners shall be obtained for public performance of copyrighted sound and video recordings.

(b) Component procedures established pursuant to § 142.5, below provide guidance for determining whether a performance is "public." These general principles will be observed:

(1) A performance in a residential facility or a physical extension thereof is not considered a public performance.

(2) A performance in an isolated area or deployed unit is not considered a public performance.

(3) Any performance at which admission is charged normally would be considered a public performance.

(c) Government audio and video duplicating equipment and appropriated funded playback equipment may not be used for reproduction of copyrighted sound or video recordings.

#### § 142.5 Responsibilities.

Heads of DoD Components shall establish procedures to comply with this Directive and shall provide necessary local guidance and legal interpretation.